



Office of the
Merit Commissioner

Merit Performance Audit

2012

UPHOLDING FAIR HIRING IN THE
BC PUBLIC SERVICE



Table of Contents

Executive Summary	1
Overview	3
Audit Criteria and Process	3
Scope	4
Overall Results	6
Analysis and Observations	9
Appointment Process	12
Assessment	15
Documentation	19
Past Work Performance	21
Years of Continuous Service	22
Notification	24
Recommendations	26
Appendix A – Organizations Subject to Oversight by the Merit Commissioner	27
Appendix B – Response from the Head, BC Public Service Agency	28



Executive Summary

Introduction

The Office of the Merit Commissioner conducted random audits of 228 appointments to examine whether recruitment and selection processes were properly applied to result in merit-based appointments, and whether individuals appointed were qualified.

Findings

Process

In 56 per cent of the competition files audited, the appointment was found to be the result of a merit-based process that was consistent with the stated selection criteria, reasonable and relevant, and related to factors specific to the job. The remainder had issues or flaws. In 36 per cent of the appointments, the process was merit-based with exceptions - where issues with the process or the application of policy or collective agreement provisions were identified. Merit was found not to have been applied in six per cent of appointments. In the remaining two per cent of appointments, there was insufficient information provided to make a determination as to whether merit was applied.

These results show a declining trend. The 2011 Merit Performance Audit found 66 per cent of appointments were merit-based and 34 per cent had issues or flaws. The 2009 Merit Performance Audit found 74 per cent of appointments audited were merit-based and 26 per cent had issues or flaws.

As the 2012 Merit Performance Audit results can be extrapolated to the larger population of permanent, temporary over seven months and direct appointments made throughout the BC Public Service in 2012, these findings are of concern.

Appointees

With one exception, the 2012 audit found no evidence that any individual failed to meet the qualifications identified as required for the position to which he or she was appointed. With respect to the exception, the organization was unable to provide reasonable evidence that the person appointed met the qualifications required for the position.

Reasons

The most common reasons for findings of "merit with exception" or "merit not applied" were categorized as issues with documentation, assessment and notification. In these categories the audit considers whether:

- ✓ there was sufficient documented evidence to show that process, actions and decisions were transparent, consistent, relevant and reasonable;



- ✓ applicants were consistently and appropriately assessed against job-related criteria and in accordance with the factors of merit: education, experience, knowledge, skills, abilities, and years of continuous service; and,
- ✓ employee applicants were notified of the final outcome of the hiring process.

Assessment issues have more than tripled since 2009. An analysis of the reasons for these findings provides insight into where hiring practices in the BC Public Service may be improved.

Recommendations to the Head, BCPSA

1. Expand guidelines on the assessment of past work performance, to address situations when a panel member is also a candidate's current or previous supervisor.
2. Address electronic systems and administration issues to ensure appropriate final notification is provided to all employee applicants.
3. When the BCPSA is responsible for the competition file, ensure documentation is complete and retained on file.

Recommendations to deputy ministers and organization heads

1. Ensure hiring managers clearly define reasonable and job-related qualifications that are advertised and properly assessed.
2. Ensure managers are accountable for decisions made related to the hiring process, and ensure all decisions are evident and defensible.
3. When the organization is responsible for the competition file, ensure documentation is complete and retained on file.



Overview

Section 5.1 of the *Public Service Act* (the *Act*) requires the Merit Commissioner to monitor the application of merit by conducting random audits of appointments to and from within the BC Public Service. Detailed audit findings are reported to the deputy ministers or other persons having overall responsibility for the ministries, boards, commissions, agencies or organizations where the appointments were made.

These results are meant to be shared with the hiring managers, as they have been delegated the responsibility to decide how best to recruit, assess and select applicants for appointments. The audit is a way of holding managers accountable for results, of recognizing performance, and of identifying problems. Overall merit performance results are provided to organization heads, who are expected to take the necessary action to improve hiring practices within their organizations. Results are also reported to the Head of the BC Public Service Agency (Agency Head) who is responsible for staffing policy, support and training in the BC Public Service as well as establishing the accountability framework for human resource management with the Deputy Ministers' Council. The overall audit results are also shared with the Legislative Assembly and publicly reported through the Office of the Merit Commissioner website.

Audit Criteria and Process

The *Act* specifies that the Merit Commissioner is responsible for conducting random audits of appointments to assess:

- (a) whether the recruitment and selection processes were properly applied to result in appointments based on merit, and
- (b) whether the individuals when appointed possessed the required qualifications for the positions to which they were appointed.

To conduct this assessment, an auditor uses an established audit program to determine whether: the legislative, policy and collective agreement requirements relevant to merit-based hiring have been met; the factors of merit as stated in the *Act* have been considered; the appointment has been made through a fair process; hiring decisions have been communicated to employee applicants; and the individual appointed was qualified. The Merit Commissioner's website at www.meritcomm.bc.ca contains full details of the audit program.

The audit considers whether there was a merit-based process and whether the person appointed was qualified.



Audits are based on the underlying premise that hiring managers understand the needs of the organization and are therefore best positioned to make decisions regarding the critical qualifications and competencies required for a position, and the most suitable tools and methods to assess them. Provided that the hiring process is reasonable and job-related, the audit is not designed to replace this judgment.

Audits of individual appointments result in one of the following findings with respect to the competition process.

- **Merit** - the appointment was the result of a merit-based process that was consistent with the stated selection criteria, reasonable, relevant, and based on factors specific to the job.
- **Merit With Exception (MWE)** - the appointment was considered merit-based but issues were identified with either the conduct of the process or the application of policy or collective agreement provisions.
- **Merit Not Applied (MNA)** - the appointment was not the result of an open, transparent, fair or reasonable merit-based process or there was a critical error in the process which resulted in an incorrect appointment. A “merit not applied” finding does not suggest that the individual appointed is not qualified for the position, unless otherwise indicated.
- **Unable To Determine (UTD)** - there was insufficient evidence available to draw a conclusion concerning merit.

Scope

Any organization to which section 8 of the Act applies may be audited by the Office of the Merit Commissioner. A list of organizations subject to this oversight is included in Appendix A.

Appointment Types

The merit performance audit focuses on those appointments that form the regular, long-term workforce of the BC Public Service. Specifically, these appointments are permanent appointments and temporary appointments that exceed seven months and which are required by section 8(1) (b) of the Act to be the result of a process that assesses eligible applicants’ knowledge, skills and abilities. Auditing these types of appointments, where a candidate’s merit is assessed and ranked relative to that of other candidates (i.e., through a competition), reveals the most information about how the principle of merit is being applied.

Direct appointments under section 10(b) of the Act are also included in the audit, not only to ensure that they are based on merit but also to ensure that organizations are appropriately seeking and receiving the required approval of the Agency Head.

Time Frame

The 2012 Merit Performance Audit focused on appointments made throughout the 2012 calendar year.

Appointment and Sample Details

In total, a population of 4,258 permanent appointments, temporary appointments exceeding seven months, and direct appointments were reported in 2012. The appointment population consisted largely of appointment data drawn from the Corporate Human Resource Information and Payroll System (CHIPS) by the BC Public Service Agency (BCPSA). From this population, three random samples of appointments were drawn by BC Stats:

- in August 2012 for the January 1 through June 30, 2012 appointment population;
- in October 2012 for the July 1 through September 30, 2012 appointment population; and
- in January 2013 for the October 1 through December 31, 2012 appointment population.

As information related to appointments made by the Liquor Distribution Branch and the Forensic Psychiatric Services Commission (BC Mental Health and Addiction Services) is maintained in databases which are separate from the overall BC Public Service, these organizations were sampled independently in September 2012 and February 2013.

To ensure that the random samples were representative of the actual population of appointments, the following categories were selected as being of greatest importance and used to stratify the appointment data:

- ministry/organization size: smaller than 200 employees, between 200 and 499 employees, 500 to 1,000 employees, or larger than 1,000 employees;
- appointment type: permanent, temporary appointment exceeding seven months, or direct appointment; and
- bargaining unit status: included or excluded.

Sample stratification ensured correct proportional coverage within each of the categories.

The chance of audit within a group is virtually identical for each appointment in that group, while the correct proportion of audits remains guaranteed in the most important categories.

In order to be able to generalize the results of the audit to the overall population of appointments with a high level of confidence, a sampling rate of approximately 5.6 per cent was initially set. However,

hiring restrictions put into place in the BC Public Service in September 2012 reduced the anticipated number of appointments for the balance of the year. In order to achieve a generalizable sample size, a higher sampling rate based on actual number of appointments for the latter part of the year was necessary. The overall sampling rate of 5.8 per cent for the year resulted in a total audit sample of 256 appointments, 28 of which were subsequently determined to be outside the scope of the audit.

Of the 28 appointments which were found to be outside the scope of the audit, most were incorrectly identified due to CHIPS coding errors. This represents 11 per cent of appointments sampled, which is an improvement since the 2011 Merit Performance Audit figure of 13 per cent but still a high rate of error. Data integrity of CHIPS information is important as it is the source of data for many reports and studies, some of which impact hiring in the public service.

Overall Results

Qualifications

With one exception, the 2012 Merit Performance Audit found no evidence that any individual failed to meet the qualifications specified for the position to which he or she was appointed. With respect to the exceptional case, the organization was unable to provide any evidence of the individual's qualifications.

No evidence was found that any appointment audited was the result of patronage.

Recruitment and Selection Process

Table 1 shows the overall results of the audit. The statistically valid sample means that the results can be extrapolated from the audited appointments to the larger population of the same types of appointments (i.e., permanent appointments, temporary appointments of more than seven months and direct appointments) made during 2012. The results indicate the strengths and weaknesses in merit-based hiring in the BC Public Service in 2012.

Table 1 - Overall Results

Conclusion	Appointments Audited		Extrapolated Results - Estimated Population ¹	
Merit applied	127	55.7%	2,160	55.0%
Merit with exception	83	36.4%	1,469	37.4%
Merit not applied	14	6.1%	220	5.6%
Unable to determine	4	1.8%	79	2.0%
Total	228	100%	3,928	100%

¹ Weighted extrapolations were provided by BC Stats, as well as the margins of error which are included in the BC Stats report posted separately on the Office of the Merit Commissioner website.



Of the 228 appointments audited, 127 appointments (55.7 per cent) were found to be the result of a merit-based process with no exceptions. A further 83 appointments (36.4 per cent) categorized as “merit with exception” were found to be based on merit, but issues were found with some aspect of how the process was conducted or with the application of policy or collective agreement obligations.

The audit found that 14 (6.1 per cent) of the appointments audited were not the result of a merit-based process. In one case, this finding was the result of more than one issue. In seven appointments, recruitment and selection processes were compromised as they were not open and reasonable. In five appointments, there were inconsistencies in the scoring or assessment of candidates; and in three appointments, the assessment of years of continuous service (a factor of merit) was conducted incorrectly, resulting in candidates being appointed in error. Descriptions of a selection of these cases appear later in this report.

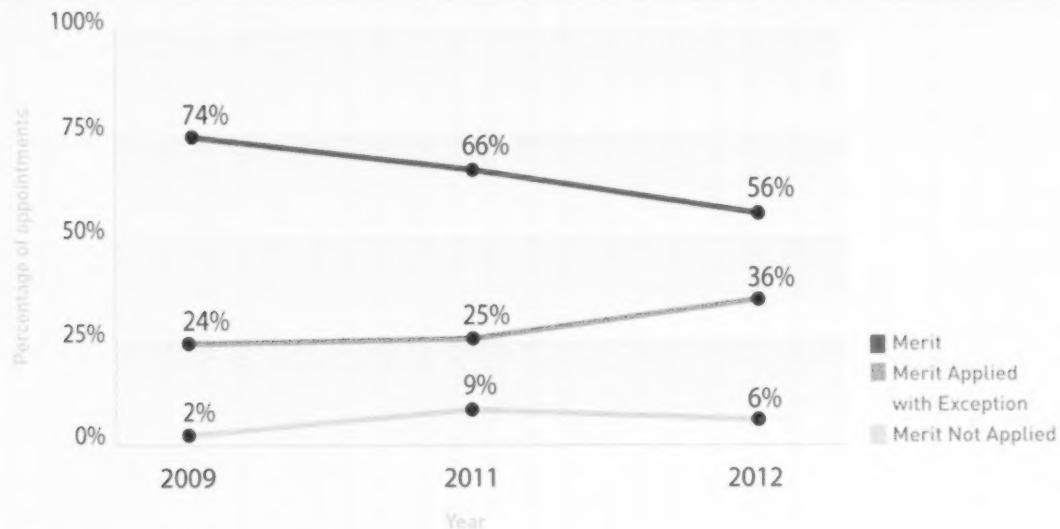
In four (1.8 per cent) of the appointments audited, a determination of merit was unable to be made as all or significant portions of the documentation related to the appointment decisions were unavailable.

These audit results indicate areas of potential risk to merit-based staffing in the BC Public Service. In 42.5 per cent of the appointments examined in the audit – and by extrapolation, in an estimated 43 per cent of similar appointments made throughout the BC Public Service in 2012 – managers did not follow basic hiring policy, collective agreement provisions, or statutory obligations that relate to merit. In other words, there were flaws or exceptions to merit-based hiring processes in an estimated 1,689 appointments made in 2012.

Year-to-Year Comparison of Merit Performance

The reasons for audit finding have shown some interesting changes over time. Chart 1 illustrates the findings since 2009.

Chart 1 - Frequency of Findings



Notes:

Percentages have been rounded for ease of reference.

2010 partial-year audit findings are not included.

"Unable to Determine" findings, which have consistently been less than 2 per cent each year, are not included.

The findings of "merit not applied" have decreased since the 2011 audit from 8.5 percent to 6.1 per cent. While this reduction is encouraging, the current rate is almost triple that found in 2009 (2.3 per cent).

The percentage of "merit with exception" findings has increased significantly since 2011. This category of findings most clearly shows where there has been an overall decline in hiring practices, given that over one third of the audited appointments were found to have issues with the conduct of the process or the application of policy or collective agreement provisions.

Since 2009, audited appointments with issues or flaws have increased from 26 per cent to 42 per cent.

With the increase in "merit with exception" findings there has been a corresponding decrease in the number of "merit" findings. As the "merit" category reflects appointments which are the result of a fair and proper selection process, the diminishing number of appointments which fall within this category is

concerning. Further, the 2012 findings are a continuation of a downward trend in hiring practices. More information about findings and trends is found in the Analysis and Observations section of this report.

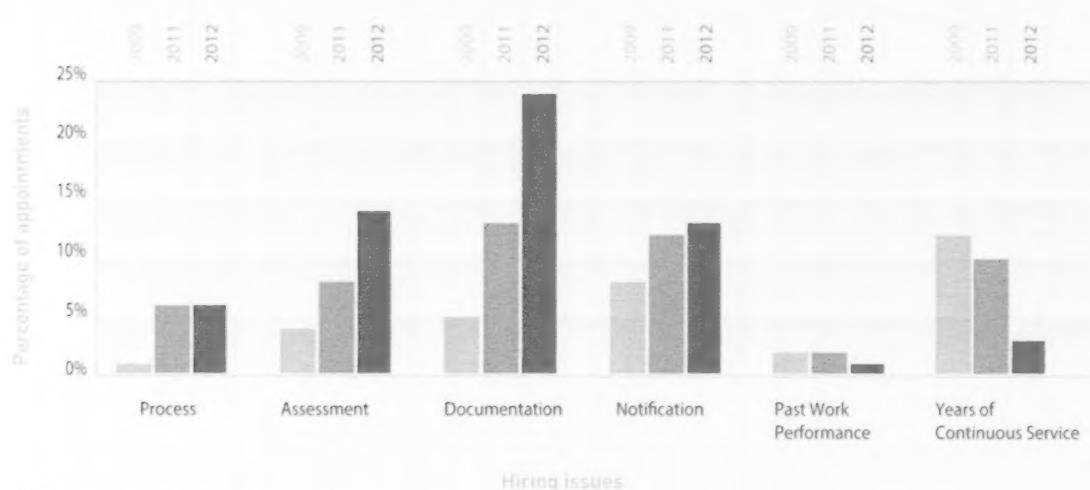
If issues which are not significant enough to warrant a “merit with exception” finding are identified in a competition, the issues are noted in the individual audit report to highlight where problems were identified and to allow managers to make improvements to their hiring practices. For example, a note would be made if there were minor flaws in the transcription or tabulation of marks which had no impact on the competition results. The Office of the Merit Commissioner also tracks these notes made to audit reports and has found that the number of appointment decisions where an issue has been observed, has also increased significantly over time: in 2012, 48 per cent of the “merit” findings included notes, whereas in 2011 approximately 40 per cent of audits included notes.

The overall results of this merit performance audit continue to reflect a decrease in the quality of merit-based hiring in the BC Public Service. While the number of selection processes where there was a finding of “merit not applied” has decreased slightly, more noteworthy is the significant increase in the number of selection processes where issues were identified.

Analysis and Observations

Chart 2 indicates the major issues identified through the 2012 Merit Performance Audit, and provides some insight into hiring issues identified over time.

Chart 2 - Trends in Hiring Issues



Note:

2010 partial-year audit findings are not included.



Documentation was the most prevalent issue, identified at a rate double that of the 2011 Merit Performance Audit. That audit also highlighted assessment as an area of interest for future study as the percentage of appointments with assessment issues had more than doubled since the 2009 Merit Performance Audit. In 2012, the percentage of assessment issues nearly doubled again and therefore remains of significant concern. While there were slight changes in the frequency that issues with notification and past work performance were identified, the lack of final notification remains one of the top three concerns identified. For the first time in the last four audit cycles, years of continuous service as assessed through the application of the “qualified relatively equal” calculation, was not one of the top three concerns. Significant improvement in this area was noted.

Many of the issues identified in the audit, whether related to process, assessment or documentation, occurred at the short-listing stage, where applicants’ education and experience were assessed against the job requirements. A total of 63 (28 per cent) of the appointments audited had flaws or issues of varying levels of concern, related to short-listing; in particular, with respect to the thorough and consistent assessment of applicants, and the documentation of the reasons for the basis on which each applicant was short-listed or not. Depending on the extent and impact of these matters on the final appointment, the findings ranged from “merit” to “merit not applied”.

Table 2 shows the reasons for findings other than “merit”, including multiple findings for some appointments. Of the 14 appointments with a “merit not applied” finding, six of the appointments also had issues identified that warranted findings of “merit with exception” in addition to the “merit not applied” finding. These appointments are also included in the “merit with exception” column in Table 2.

Further, in 25 of the 83 appointments where “merit with exception” was found, multiple issues were identified. This resulted in a total of 121 “merit with exception” issues within the 228 appointments audited. These results are significantly worse than those of the 2011 audit when there were a total of 81 “merit with exception” issues within 222 appointments audited.

Table 2 – Issues Identified

Issue	Number and Type of Finding		
	Merit with Exception	Merit Not Applied	TOTAL (% of all issues identified)
Appointment Process	7	7	14 (10.3%)
Assessment	27	5	32 (23.5%)
Documentation/Evidence	51	-	51 (37.5%)
Notification	30	-	30 (22.1%)
Past Work Performance	2	-	2 (1.5%)
Years of Continuous Service (BCGEU)	4	3	7 (5.1%)
Total Issues	121	15	136 (100%)

The following sections of this report provide further details concerning the issues identified through the 2012 Merit Performance Audit. The audit also identified many examples of well-run processes. One such example of a well-developed and executed assessment process is described in Case 1.

Case 1 – Good practices in assessment process

Applicants to an excluded temporary appointment were short-listed based on the education and experience criteria outlined in the posting. To facilitate the short-listing process, the panel developed a guide which defined the duration and type of experience required to meet each experience requirement. The short-listed candidates then progressed to a written test that had specific and clear directions and which was evaluated through a blind marking process in order to ensure candidate anonymity. The candidates who met the pre-established minimum score required to pass the test were then invited to an interview. The interview assessed job-related behavioural competencies, knowledge and skills through a structured set of questions which were marked against an answer guide. For each candidate who passed, the panel then conducted a thorough past work performance assessment, including detailed notes, with current supervisors to validate a number of skills. Two candidates were offered positions and the remaining qualified candidates were correctly ranked and placed on an eligibility list. Overall, the file was well documented and reflected a thorough and thoughtful assessment.

Appointment Process

Section 8(1) of the Act requires that appointments to and from within the public service be based on the principle of merit and be the result of a process designed to assess the knowledge, skills and abilities of eligible applicants.

While a merit-based process must ensure that candidates are treated consistently and fairly, such a process need not be identical for every candidate, as long as reasonable decisions are made.

The merit performance audit determines whether the appointment process included a reasonable and transparent approach to attracting an appropriate number of applicants with the necessary skill set, given the requirements of the position. The audit also examines whether applicants were assessed for merit relative to one another, resulting in the appointment of the best-qualified candidate(s).

There are exceptions permitted to the general statutory requirement for appointments to be based on a competitive process; for example, the direct appointment of an individual into a higher level position. In such a case, after assessing an individual's merit relative to the job requirements, an organization may outline to the Agency Head the unusual or exceptional circumstances they consider warrant a direct appointment. The Agency Head then may exercise sole authority to approve such an appointment under section 10(b)(iii) of the Act.

Results

In the 2012 audit, issues were identified with the appointment process in 14 (six per cent) of the appointments audited, essentially the same percentage as in 2011. Half of these appointments included exceptions to a merit-based process. The other half were not based on merit, as they were not found to result from an open and reasonable process as required under section 8(1)(b) of the Act. As well, in one of the "merit not applied" cases it could not be determined if the individual appointed was qualified.

Seven appointments had flawed processes which resulted in "merit not applied" findings.

- Three appointments had no competitive process or a severely abbreviated process, with operational requirements cited as the reason for the approach taken. As previously noted, if operational requirements preclude a competition, there are provisions for requesting a direct appointment by the Agency Head. No such approval was sought in these cases.
- Three appointments had issues related to bias or preferential treatment of a candidate. Two of these appointments were made from the same competition, in which a former employee was



rehired. In the third case, insufficient steps were taken to avoid the perception of a conflict of interest for a panel member. This case is described as Case 2.

- One appointment had a flawed approach to considering candidates for under-implementation and is described as Case 3.

Case 2 – Panel member related to successful candidate

In this process, the individual appointed was related to one of the panel members. The panel member participated in establishing the assessment tools, conducting interviews and administering much of the competition, including acting as the ministry contact for applicants. The Merit Commissioner determined that the precautionary steps taken, including the panel member not participating in the interview or assessment of the related candidate, were insufficient to ensure there was no perceived or actual conflict of interest; therefore, the process did not meet the test of fairness and transparency.

Case 3 – Flawed approach to under-implementation

The posting for this position indicated that applicants not fully meeting the required qualifications may be considered for an appointment at a lower classification level. Applicants who met the full education and experience criteria were short-listed along with several others who met the lesser requirements to be appointed at an under-implemented level. All candidates were assessed using the same questions, with those being considered for full implementation required to demonstrate a higher target level for each competency question.

One candidate passed the higher-level assessment and was appointed at the full classification level. Three other candidates who were considered for the lower target level and passed were offered appointments at an under-implemented level. However, a candidate who did not pass the assessment process at the higher target levels was not considered against the lower target levels, despite receiving sufficient marks to be one of the successful candidates to receive an under implemented appointment. The audit concluded that this candidate was unfairly disadvantaged in the process.

Three of the “merit with exception” findings for appointment process were related to inconsistencies in the application of geographic restrictions or a lack of understanding of interview travel expense payment provisions, both of which compromised fair process. The other four “merit with exception” findings were related to a systemic flaw in the Employment and Assistance Worker hiring pool process.

This flaw in the procedure used to refer candidates in the pool for testing and interviews accounted for all of the exceptions related to appointment process in the 2011 audit and was detailed in the special audits of hiring pools undertaken in 2011.

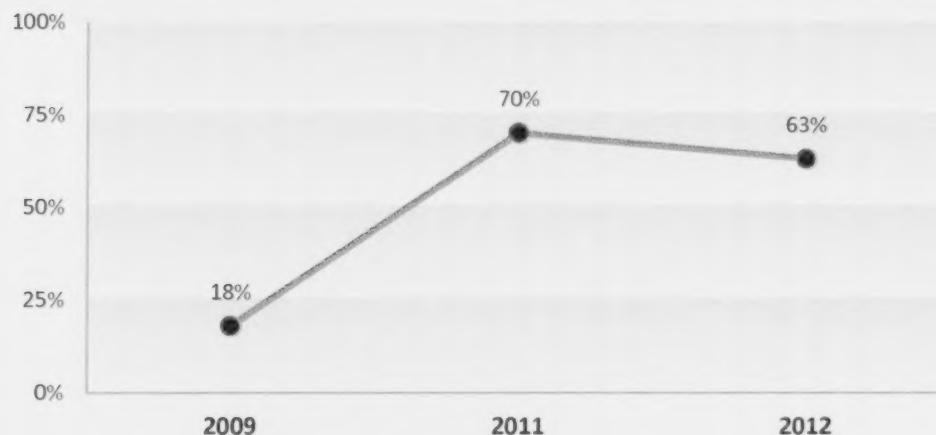
Direct Appointments

Three appointments audited in the 2012 Merit Performance Audit were considered direct appointments. In each case, the authorization of the Agency Head was requested by the organization, and approval was received prior to appointment. All three direct appointments were found to be in keeping with the legislative requirements.

Restricted Competitions

It was noted that approximately 63 per cent of the competitions audited in 2012 were open to in-service applicants only. As illustrated in Chart 3, the proportion of restricted competitions decreased slightly from 2011, when restrictions on external postings were implemented.

Chart 3 – Percentage of Competitions Restricted to In-Service



It was observed that 29 per cent of all the in-service competitions audited in 2012 had further restrictions, such as to a ministry, a geographic area, an organizational unit within a ministry, or some other limited groups of employees. In 2011, 35 per cent of in-service competitions had further restrictions. Restrictions can provide those individuals responsible for hiring with flexibility to appropriately manage the area of competition; however, unreasonable restrictions placed on competitions may increase the risk of processes that are not fair, open and transparent. This area is of interest to the Office of the Merit Commissioner given its potential to negatively impact merit-based hiring.



As was reported in the 2011 audit, the 2012 audit also noted that there is no evidence of corporate measures in place to guide ministries with regard to restricting the area of competition (e.g., under what circumstances and to what level restriction may be appropriate). Without such practical guidelines the requirement for fair, open and transparent processes may be at further risk given the impact unreasonable restrictions have on employee career paths and fair hiring in general.

Assessment

Managers are accountable for their hiring decisions and as such, are also responsible for determining which qualifications are required to perform the job, and which tools and methods are the most appropriate to use in assessing applicants against these criteria. Accurately describing and posting these requirements is critical to a transparent and merit-based process as it helps potential applicants determine whether they are qualified and eligible to apply, and allows for an objective and impartial staffing process by assessing applicants against these defined criteria. As well, it gives others, both staff and the general public, confidence that the individual hired is qualified for the position. The audit determines whether the appointment was the result of a fair and reasonable merit-based staffing process in which applicants were objectively and consistently assessed relative to the posted staffing criteria, and whether all the factors of merit were appropriately considered.

Results

In the 2012 Merit Performance Audit, five of the appointments audited determined not to be merit-based resulted from assessments that did not consider all the factors of merit or meet all the critical elements of a merit-based process. In a further 27 cases, a flawed assessment resulted in findings of merit with exception, some of which had more than one reason for the finding. Together, 32 (14 per cent) of the appointments audited resulted from flawed assessments. It is of significant concern that such findings have almost doubled since the 2011 audit, when the total was 7.7 per cent.

The proportion of appointments with assessment flaws or issues nearly doubled from 2011 to 2012.

A further 19 (eight per cent) of the appointments audited received a “merit” finding; however, minor assessment-related issues were noted, such as slight tabulation or transcription errors or discrepancies in required qualifications which did not impact the competition outcome.

Administrative Errors

A number of administrative errors, primarily calculating or transcribing scores, were identified. Although most of these errors did not affect the final outcome of the competitions, one such error led to a finding



that merit was not applied and four other errors led to findings of “merit with exception”. In the cases where errors were found:

- a candidate who passed a written test was not considered further in the process because of an addition error;
- several candidates were incorrectly advanced or eliminated from further consideration due to administrative errors in the communication of on-line test results;
- addition errors in two competitions affected the final rank order of candidates but the impact was mitigated as in one case the incorrectly ranked candidate declined an offer and in the other case multiple appointments were made at the same time; and
- a candidate was not considered as the application was not forwarded to the hiring manager.

Candidates’ scores determine their placement relative to other candidates in a competition. When an eligibility list is established, it is important that managers ensure scores are carefully calculated and entered as even minor errors can affect how candidates rank in a competition and compromise the integrity of the assessment process. It is also important that all applications, not just that of the successful candidate, are accounted for throughout the process.

Short-listing

Generally, at the short-listing stage, applications or resumes are assessed against the advertised mandatory education and experience requirements of the position to determine which individuals are qualified to move forward in the selection process.

More than half of the assessment issues identified occurred during short-listing.

Short-listing Inconsistencies

In 16 of the 32 appointments with assessment issues, the findings were related totally or in part, to inconsistencies in short-listing. The audit noted competitions where short-listing decisions related to some applicants were based on unadvertised criteria or undefined equivalencies, and there was a lack of evidence that all candidates were assessed using the same criteria. In other cases, some applicants were short-listed based on lesser criteria than had been posted, or as a courtesy to an employee within the work unit, while others with similar backgrounds were not afforded the same consideration. To varying degrees, the inconsistent treatment of applicants at the short-listing stage compromised the fairness, objectivity and relevance of the assessment process.



Short-listing on Knowledge, Skills or Abilities

Five appointments received a “merit with exception” finding due to a short-listing practice that has also been identified in past audits as problematic. In these competitions, applicants were assessed against selection criteria characterized as knowledge, skills and/or abilities, based only on a review of the resumes and covering letter or applicant questionnaire. Short-listing candidates on the basis of their own representation of these qualifications is unsound in that information may be either over-stated, under-stated or omitted.

Good practice limits the initial screening of applicants’ qualifications to the stated education and experience requirements – applicants either meet these criteria or they do not. Applicants who are short-listed on the basis of their education and experience would then be required to demonstrate the required knowledge, skills, abilities and competencies through further assessment such as written tests and interviews. As a number of these cases involved electronic self-assessment questionnaires, the use of this tool has been identified as a potential area of further study.

Case 4 illustrates a number of assessment issues at the short-listing stage of a competition.

Case 4 – Accepting statement of qualifications and courtesy short-listing

An on-line questionnaire included 11 questions about experience, knowledge, skills, and abilities. Some of these qualifications could be inferred from the applicant’s education and experience, whereas others required some form of assessment beyond resume review. The hiring manager awarded credit for any indication of the qualification, including the applicant’s statement that he/she possessed it. In addition to assessing qualifications inappropriately through short-listing, the panel failed to directly consider education and experience. Further, one applicant who did not meet short-listing requirements was advanced for further consideration as the hiring manager indicated that, as the applicant had not been informed in a timely manner that she was not short-listed, he felt obligated to include her in the competition. As this applicant failed a subsequent level of assessment; there was no impact on the competition outcome.

Testing and Interview

Managers use a variety of methods to assess candidates who have been short-listed and it is generally accepted that multiple assessment methods add credibility and validity to the appointment process. In 61 per cent of the processes audited in 2012, one or more methods such as written exercises, role plays, or oral presentations, were used to assess candidates in addition to interviews. In almost all of the other 39 per cent of the processes, an interview was the sole method of assessing short-listed candidates, other than mandatory past work performance checks.

Interview Methodologies

Some processes are designed to assess candidates against the knowledge, skills and abilities (KSAs) that are required in a position. This may include behavioural competencies (e.g., personal characteristics that would enable the person to do the job well). By contrast, behavioural interviews (BI) are designed to assess the level to which candidates have previously demonstrated the required behavioural competencies. In the processes audited, most interviews used a combination of KSA and BI questions, and some processes used only BI questions.

91 per cent of interviews included one or more behavioural interview questions.

As was also observed in previous audits, the 2012 audit noted a heavy reliance on BI assessments, and a wide range of ways in which BI assessment tools and scoring methodologies were utilized. This is an area of interest to the Office insofar as it impacts merit-based hiring, and a study on the use of BI is underway.

Inconsistent or Subjective Assessments

In addition to the previously identified administrative errors and the concerns related to short-listing, issues in other stages of the assessment process, such as role plays, written tests or interviews, were identified in 10 of the appointments audited. Case 5 describes an assessment process that was determined to not be merit-based as there was no evidence of a defined and objective means of assessing specific criteria. In the other case with a “merit not applied” finding, inconsistent treatment and unsubstantiated assessments disadvantaged some candidates. Eight other cases were found to have exceptions to a merit-based process as they utilized rating schemes and/or interview criteria which were unrelated to the job requirements, subjective, or ill-defined.



Case 5 – Subjective Assessment

A written test followed by an interview was used to assess candidates in this competition. Following the interview, the hiring panel determined that the results did not reflect their sense of the order in which candidates should have ranked and did not provide for a reasonable separation among candidates. Instead of the assessment scores, the panel used an additional subjective assessment of knowledge and expertise to determine the rank order of candidates. While the Merit Commissioner did not find issue with the relative importance the panel placed on knowledge and expertise, the assessment approach lacked the necessary elements of a merit-based process. There was no evidence of defined criteria, or an objective examination or rating system for the panel's additional assessment of candidates. Further, the choice of a qualitative assessment added a complication, as the calculation of years of continuous service is based on a quantitative assessment of candidates.

Documentation

Managers are required to document hiring activities as thoroughly as they are required to document other business decisions with financial implications. It must be evident that throughout the recruitment and selection process the merit principle was upheld and actions were in keeping with the elements of transparency, consistency, relevance, fairness and reasonableness. Managers are also accountable for providing feedback to employees who participate in a competitive process and proper documentation enables them to do so. An absence of evidence supporting an applicant's assessment may impact their perception of the fairness of the hiring process. Also, at times eligibility lists are used by other hiring managers and a well-documented account of the hiring decision increases their confidence that the initial competition was merit-based and therefore valid and reliable for future appointments.

Results

The 2012 Merit Performance Audit results confirmed that “merit with exception” and “unable to determine” findings related to documentation issues are continuing to increase at a notable rate, from approximately five per cent in 2009 to 13 per cent in 2011 to 24 per cent in 2012. It was also observed that an additional 11 per cent of appointments audited in 2012 were merit-based, but the audit reports noted that there could have been improvement in some aspect of the documentation of the competition.

Both paper and electronic files were received for audit with 80 per cent of the files in electronic format (as compared to 87 per cent in 2011). The large majority of the electronic files were forwarded to the Office through or by the BCPSA's Hiring Centre. Most of the remaining 20 per cent of files were hard-copies, sent directly by ministries or independent organizations.



During the audit it was often necessary to work with the Hiring Centre and hiring managers in an effort to locate evidence not originally submitted for audit and which should normally be on file, such as final short-listing decisions, interview notes and marking details. In some cases, the required documents were found but often no documentation was available to support some of the decisions made throughout the assessment process and hiring managers were only able to provide verbal evidence.

Documentation flaws were found in one quarter of the appointments audited.

In four cases (two per cent) of the appointments audited there was such a lack of documented evidence that the audit was unable to determine whether a merit-based process had been followed. In 51 cases (22 per cent) of the appointments audited, the lack of evidence warranted a finding of “merit with exception”, and often more than one documentation-related concern was identified.

Similar to the 2011 audit findings, approximately half of the documentation issues related to inadequate information to support short-listing decisions. The documentation provided for audit often included the Hiring Centre’s initial short-listing recommendations to the hiring manager but not the panel’s final short-listing decisions. This made it difficult to determine who was considered qualified for further assessment in a competition and who was not, and the basis for those decisions. Since education and experience are two of the six factors of merit and the short-listing process is typically where these factors are considered, it is important that short-listing assessments are given careful deliberation, and that the resulting short-listing decisions and the rationale behind those decisions are appropriately documented.

The second most prevalent documentation issue noted in 2012 was the lack of proper documentation of the assessment of past work performance. An improvement in this regard had been noted in 2011, as only three per cent of all appointments audited were flagged as “merit with exception” for this reason. However, a reversal of this trend was noted in the 2012 audit, in which eight per cent of all audited appointments did not have documented evidence that past work performance was considered. In almost all of these cases, verbal evidence was subsequently provided as to the fact that the panel had direct supervisory knowledge of the successful candidate’s work performance; however, this information was not noted on the competition file. See Case 6 for an example of both of these documentation issues.

Case 6 – Undocumented Short-listing and Reference Check; Candidate’s Supervisor on Panel

In this competition, a mandatory on-line questionnaire was used and the BCPSA’s initial short-listing document noting decisions about which candidates would proceed was retained. The panel did a second-level of short-listing but there was no evidence on file to indicate and provide a rationale for the final short-listing decisions. Based on the hiring manager’s verbal evidence regarding the panel’s approach and a review of the resumes and required qualifications, the auditor was able to determine that the results of the secondary short-listing process were consistent and reasonable. There was also no past work performance assessment documented to file. The hiring manager advised that this factor of merit had been considered as he had direct supervisory knowledge of the candidate and had reviewed the candidate’s Employee Performance and Development Plans, although he had not documented this assessment or the decision to the file.

Documenting past work performance provides evidence that the manager considered this factor of merit, that the successful candidate possessed the qualifications required, and adds transparency and credibility to the overall process.

The remainder of the documentation issues identified in the 2012 audit related to other areas of assessment where supporting evidence was missing such as panel notes, testing results, or rating details. Some improvement was noted in this regard, with fewer documentation issues noted in these areas than in 2011.

Past Work Performance

Assessing an individual’s past work performance is a critical element of a selection process and is an essential component of an informed and quality hiring decision. Conducted well, it may be used to validate any part of the assessment process that has relied on information self-reported by candidates; it can provide additional evidence that candidates meet the knowledge, skills, abilities and competencies required for the position; and it can serve to confirm that the successful candidate is a match for the job. The proper documentation of the assessment of past work performance ensures this aspect of the selection process and therefore the overall process is transparent and credible.

The Act specifies past work performance as one of six factors that must be considered when determining merit. In addition, BC Public Service hiring policy specifically requires an assessment of past work performance which includes at least one employment reference from a current or previous supervisor or equivalent. The merit performance audit looks for documented evidence to confirm that this factor of merit was properly considered, as required by statute and policy.

Results

In the 2012 audit, issues were identified with the assessment of past work performance in two (one per cent) of the appointments audited. This is an improvement from the 2011 audit results (two per cent of appointments audited) in both the number and the severity of the issues identified.

In both cases identified in the 2012 audit, the audit finding was that the appointments were merit-based but exceptions were found to hiring policy or collective agreement requirements in the conduct of the process. Case 7 describes one of these appointments.

Case 7 – No supervisory reference available

Reference checks with two colleagues were conducted for a candidate who was then appointed. The hiring panel had attempted to contact a previous supervisor and, when unsuccessful, obtained basic information about the job duties from the company's human resource representative instead. Although the panel endeavoured to conduct a robust past work performance assessment, hiring policy states that a reference from a supervisor or equivalent is required to substantiate that a candidate meets the qualifications required for the position, and also adds credibility to the process. In this case, there were other potential supervisory referees who the panel did not attempt to contact. As a result, the competition was deemed to be merit-based but was flagged with an exception.

In addition to the two "merit with exception" appointments, a few audit reports with a "merit" finding made note of other areas for improving the assessment of past work performance. Primarily these were situations where the panel used point scores assigned by the referee to determine the candidate's past work performance assessment, rather than assigning the scores themselves based on the information provided by the referee. In these particular cases the outcome was not affected; however this approach does not ensure an objective and consistent assessment of past work performance across candidates.

Years of Continuous Service

When determining merit, another of the six factors that must be considered under the Act is an employee's years of continuous service with the BC Public Service.

For appointments to positions covered by the collective agreement with the BC Government and Service Employees' Union (BCGEU), the "qualified relatively equal" (QRE) calculation is the agreed upon method of assessing candidates' years of continuous service. In a competition for a BCGEU position, if the candidate rated highest overall after the final stage of all other assessment processes does not have the most years of continuous service in the BC Public Service, the QRE formula is applied to determine whether any other employee candidate who has also passed all stages of assessment is considered



“relatively equal” to that candidate. If this is determined to be the case, then the employee candidate with the most years of continuous service is declared successful and offered the appointment. Where more than one vacancy is being filled, or an eligibility list is being established, other “relatively equal” candidates are ranked for appointment in order of their years of continuous service, followed by the remaining qualified candidates in order of their point scores. These calculations are typically documented on a rating guide summary of the selection process, and provide important evidence to support the final order in which candidates are appointed.

For excluded positions and for positions covered by the Professional Employees Association (PEA) or nurses’ collective agreements, years of continuous service is still a factor of merit that must be considered under the *Act*, although there is no requirement that it be specifically assessed. Previous audits of appointments to non-BCGEU positions where this factor has been assessed have observed the common practice of assigning a 10 per cent weighting to continuous service. In hiring and selection processes for such positions, it remains important to document that this factor has at least been considered, the resultant decision that has been made as to whether or not it will be assessed and, if assessed, the weighting calculation and results of the assessment. Close examination is given to competitions where a calculation other than the standard 10 per cent has been used in order to ensure the decision was reasonable and results were not skewed to favour a particular candidate.

Results

Positions included in the BCGEU accounted for 151 (66 per cent) of appointments audited. In those appointments which required the “qualified relatively equal” calculation to assess years of continuous service, the audit found that the calculation was either not performed, or performed incorrectly in seven (4.6 per cent) of the BCGEU appointments audited. In three cases where incorrect appointments resulted, the audit finding was “merit not applied”. In the other four cases, which were found to be “merit with exception”, the correct calculation of years of continuous service would not have altered the final ranking of candidates.

One example of the issues related to the consideration of years of continuous service is outlined in Case 8.

Case 8 – Candidate’s service miscalculated

In this competition, the initial offer to the top-ranked candidate was correct but the rank order of the candidates on the eligibility list was incorrect. The “relatively equal” work sheet indicated that years of continuous service were not considered applicable for one of the candidates; however, this candidate’s resume indicated more than ten years of continuous service. With the correct application of “relatively equal”, this candidate would have ranked first on the eligibility list instead of third and as such, would have received an offer of appointment.



The assessment of years of continuous service for appointments to BCGEU positions has been a recurring audit issue, resulting in recommendations by the Merit Commissioner following each of the four previous merit performance audits. In the 2011 audit results an overall improvement was noted when the occurrence of issues related to this factor dropped to 9.8 per cent from 11.7 per cent in the previous audit. This positive trend has continued with a drop to 4.6 per cent in 2012.

The assessment of the qualified relatively equal calculation has shown a 50 per cent improvement since the 2011 Merit Performance Audit.

The Agency Head's response to the Merit Commissioner's recommendations arising from the 2011 Merit Performance Audit noted that going forward the QRE calculation would be conducted by trained staff in the BCPSA and that new assessment forms under development at the time would include a section strictly related to the consideration of QRE. An improvement in the number of issues related to this calculation was observed following the BCPSA's implementation of these measures. This improvement is meaningful in terms of merit-based hiring, as flaws or errors in the QRE calculation can impact whether a candidate is appointed, or may affect placement order on an eligibility list for future hiring.

Notification

The absence of notification to unsuccessful employee applicants is an exception to a merit-based hiring process. Although best practice is to keep all applicants apprised of their status in a hiring process, it is critical that managers notify employee applicants about the final outcome of the hiring process. Such notice serves to fulfill the requirement under the Act to provide them the right to challenge the merit of an appointment through a staffing review process. As the first step of the review process (i.e., feedback) can only be initiated once an employee receives notification that another candidate is to be appointed, the absence of this final notification obstructs the unsuccessful employee's opportunity to exercise their statutory rights in this regard.

Accounting for the outcome of a selection process is also an essential element of ensuring transparency in the conduct of public business. Failure to provide appropriate notification undermines confidence in the merit of the appointment and may lead to the perception that managers are not accountable for their hiring decisions.

Providing appropriate notification also gives managers an opportunity to demonstrate leadership and accountability for their decisions and affords them an occasion to build internal capacity by giving feedback useful to employees in their career planning. Managers' demonstration of such leadership is a key factor in increasing employee commitment and engagement.



Results

A lack of final notification was one of the two most commonly found errors in both the 2009 (8.3 per cent) and 2011 (11.7 per cent) merit performance audits. In 2012, the number of notification issues increased to 13.2 per cent of appointments audited. In all cases the 30 appointments with these notification issues were found to be merit-based but were flagged with an exception (“merit with exception”). Although notification is relatively straight-forward, and has become a largely automated process with notification letters generated electronically by the BCPSA, the continuing high percentage of exceptions to merit-based hiring processes with respect to this issue indicates that improvements are still required.

A lack of final notification to all unsuccessful employee applicants was one of the three most common issues identified in 2012.

Approximately 40 per cent of the notification issues identified were related to the absence of final notification to employee applicants who were not short-listed. In some of these cases, these applicants were advised at the stage when they were screened out for further consideration, but they did not receive notification of the final appointment decision. Interim notification does not fulfill the requirement of providing notification of the final appointment decision to employee applicants.

In other cases, employee applicants who were deemed ineligible for consideration were not notified of the competition results. Hiring managers may limit the pool of applicants through a restricted competition in which eligibility to be considered is based on the applicant’s employment status (i.e., in-service or out-of-service), geographic location, organizational unit, and/or other similar criteria. In five appointments audited, employee applicants who were determined to be ineligible for one of these reasons were advised in writing early in the process that they did not meet the eligibility criteria of the restricted competition, but received no final notification of the results. The Act provides the right of review for “unsuccessful applicants”; therefore, all employees who submit themselves for consideration should be considered applicants and therefore appropriately advised of the competition outcome. This issue was discussed with the BCPSA during the course of the audit and as a result their practice was amended to ensure notification was provided to ineligible employee applicants.

Five of the 30 appointments in which final notification was not provided to all unsuccessful employee applicants resulted from corporate hiring pool processes. The notification issue arising from pooled processes was previously noted in the special audit conducted in 2011: unsuccessful employee applicants not referred for interview were not being provided final notification of the results of appointments made and were thereby being denied the opportunity to exercise their statutory review



rights. It is expected that the issues with notification in pooled hiring processes will be addressed in the Agency's revised approach to pooled hiring.

In addition to the cases mentioned above, some "merit" audit findings also included observations where improvements in practice could be introduced in notification letters to employees, such as indicating that multiple appointments were made or stating that an eligibility list was created. These changes would improve transparency.

Recommendations

Based on the 2012 Merit Performance Audit findings and the issues found with assessment (particularly short-listing), notification and documentation, the Merit Commissioner makes the following recommendations to the Head, BCPSA, and to deputy ministers and organization heads. A preliminary copy of the recommendations was shared with the Head, BCPSA, whose response is included in Appendix B.

Recommendations to the Head, BCPSA

1. Expand guidelines on the assessment of past work performance, to address situations when a panel member is also a candidate's current or previous supervisor.
2. Address electronic systems and administration issues to ensure appropriate final notification is provided to all employee applicants.
3. When the BCPSA is responsible for the competition file, ensure documentation is complete and retained on file.

Recommendations to deputy ministers and organization heads

1. Ensure hiring managers clearly define reasonable and job-related qualifications that are advertised and properly assessed.
2. Ensure managers are accountable for decisions made related to the hiring process, and ensure all decisions are evident and defensible.
3. When the organization is responsible for the competition file, ensure documentation is complete and retained on file.

November, 2013
Office of the Merit Commissioner



Appendix A

Organizations Subject to Oversight by the Merit Commissioner (as of March 31, 2013)

Ministries

Aboriginal Relations and Reconciliation
Advanced Education, Innovation and Technology
Agriculture
Children and Family Development
Citizens' Services and Open Government
Community, Sport and Cultural Development
Education
Energy, Mines and Natural Gas
Environment
Finance
Forests, Lands and Natural Resource Operations
Health
Jobs, Tourism and Skills Training
Justice
Social Development
Transportation and Infrastructure

Independent Offices

Auditor General
Elections BC
Information and Privacy Commissioner
Merit Commissioner
Ombudsperson
Police Complaint Commissioner
Representative for Children and Youth

Courts of British Columbia

Provincial Court of BC
Supreme Court of BC
BC Court of Appeal

Other Public Sector Organizations

Agricultural Land Commission
Auditor General for Local Government
BC Human Rights Tribunal
BC Pension Corporation
BC Public Service Agency
BC Review Board
Broadmead Care Society
Community Care and Assisted Living Appeal Board
Destination BC
Employment and Assistance Appeal Tribunal
Environmental Appeal Board
Financial Institutions Commission
Financial Services Tribunal
Forensic Psychiatric Services Commission
Forest Appeals Commission
Forest Practices Board
Health Professions Review Board
Hospital Appeal Board
Independent Investigations Office
Islands Trust
Oak Bay Lodge Continuing Care Society
Office of the Premier
Oil and Gas Appeal Tribunal
Property Assessment Appeal Board
Provincial Capital Commission
Public Guardian and Trustee
Public Sector Employers' Council Secretariat
Royal BC Museum
Safety Standards Appeal Board
Surface Rights Board



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Appendix B

Response from the Head, BC Public Service Agency



Where ideas work

November 25, 2013

CLIFF #5419

Ms. Fiona Spencer
Merit Commissioner
Office of the Merit Commissioner
5th floor – 947 Fort Street
Victoria, BC V8W 2C4

Dear Ms. Spencer:

Thank you for providing the opportunity to respond to the 2012 Merit Performance Audit Report. The Report indicates that 228 random audits of appointments were conducted to examine whether recruitment and selection processes were properly applied to result in merit-based appointments, and whether individuals appointed were qualified.

I am pleased to see a significant improvement in the application of "relatively equal" in the assessment of years of continuous service. We've dedicated and trained staff in the BC Public Service Agency to calculate relatively equal and this change has resulted in improved results. I also note a slight improvement to merit not applied over last year from 8.5% to 6.1% and that 55.7% of appointments were found to be the result of a merit based process that was consistent with the stated selection criteria, reasonable and relevant and based on factors specific to the job.

Notwithstanding the improvements, I recognize that fourteen appointments were found to be merit not applied and the remainder of the appointments (83) have been noted as merit with exception. The most common reason for the findings of "merit not applied" or "merit with exception" were categorized as issues with documentation, notification and assessment. Clearly, we still have room to improve in these areas.

Documentation

To meet their obligation of accountability with respect to the conduct of merit-based hiring, hiring managers must ensure all actions supporting appointment decision are documented and retained in the hiring file. An increase in awareness and education directed toward hiring managers to properly document each phase of their competition is necessary. The BC Public Service Agency has developed e-learning courses directed specifically at Hiring Managers. These courses address the need for documentation throughout a hiring process and the requirement to properly document the decisions and how they were made at each phase of the competition.

As we discussed, we will also be making changes in the way we engage with ministries in the collection of the documentation and I am planning to raise the profile on this issue through the implementation of a public service wide communication plan that is designed to have me communicating directly with supervisors and managers across all ministries on the importance of attending to their responsibilities.

Assessment

Short listing was a common area where errors occurred in assessment. Managers are accountable for decisions made throughout the hiring process which are evidence based and defensible. The Hiring Advisor role (as part of the services the BC Public Service Agency provides to hiring managers) is to provide a dedicated resource available to hiring managers that can assist them throughout the hiring process or where they specifically request assistance. Our staff will continue to be trained in key areas of hiring and will include a focus on the short listing phase of assessment.

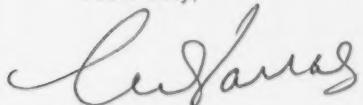
The assessment of **past work performance** is also noted. We are expanding our resources on MyHR for hiring managers on the assessment of past work performance to address situations when a hiring manager is a candidate's supervisor and also the requirement to document the results of the past work performance check in the hiring file.

Notification

Some of the notification findings indicate no evidence on file that final notifications had been sent. We have already implemented some changes to improve notification results. Applicants who were deemed not eligible (e.g., due to competition restrictions) and did not receive final notification, will now receive notification through the recruitment management system. As well we have established a notification board for active hiring pools to inform employee applicants to those pools of the final competition results for each position filled from the pool.

I remain committed to ensuring that we continue to make improvements to our practices in these areas. Your ongoing feedback through the performance audits will assist us as we strive for continuous improvement.

Yours truly,



Lynda Tarras
Deputy Minister